

WISCONSIN LOBBYING LAWS: OVERVIEW AND BEST PRACTICES

FALL 2017

ETHICS COMMISSIONERS

Name	Title	Appointed By	Term Expires
Mac Davis	Commissioner	Governor	5/1/2021
David Halbrooks	Chair	Assembly Minority Leader	5/1/2021
Katie McCallum	Vice Chair	Senate Majority Leader	5/1/2019
Pat Strachota	Commissioner	Assembly Speaker	5/1/2021
Timothy Van Akkeren	Commissioner	Governor	5/1/2019
Jeralyn Wendelberger	Commissioner	Senate Minority Leader	5/1/2019

WE'RE HERE TO HELP!

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LAY OF THE LAND

- WHAT DOES WISCONSIN LOBBYING LAW COVER?
- LOBBYING BY THE NUMBERS
- LOBBYING IS...
- THE THREE R'S OF LOBBYING

REGISTRATION

REPORTING

RESTRICTIONS



POLITICAL MARKET

Conscientious Rail-road President to Dealer: "Ah! Let me see. I think I'll take this bunch of Legislators at \$5000 a head. The Senators; at - what price did you say?"

Dealer: "Can't afford 'em less than \$10,000 each."

R.R.P.: "Well, hand them over. I suppose I'll have to take the lot."

Dealer: "Anything else today? I have a lot of Editors, at various prices, from a Thousand down to Fifty Cents."

R.R.P.: "No, nothing in that way, today. But I want a Governor very much indeed, and will stand \$50,000 for him. Get me a Wisconsin one, if possible!"

Cartoon published in *Harper's Weekly* of June 12, 1858, at the time of the Land Grant Investigation

THE LOBBYING LAW:

"The legislature declares that the operation of an open and responsible government requires that:

- the fullest opportunity be afforded to **the people to petition their government** for the redress of grievances and to express freely to any officials of the executive or legislative branch their opinions on legislation, on pending administrative rules and other policy decisions by administrative agencies, and on current issues.
- Essential to the continued functioning of an open government is the preservation of the integrity of the governmental decision-making process.
- In order to preserve and maintain the integrity of the process, the legislature determines **that it is necessary to regulate** and publicly disclose the identity, expenditures and activities of persons who hire others or **are hired to engage in efforts to influence actions of the legislative and executive branches**."

LOBBYING BY THE NUMBERS

In the 2015-16 legislative session:

• 743 organizations ("principals") were registered to lobby

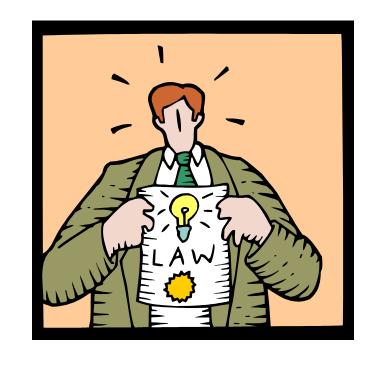
- 685 lobbyists were licensed
- Principals spent more than \$67.7 million on lobbying

Principals reported spending 383,400 hours lobbying

Equivalent to the entire Ethics Commission Staff (9 people) working full time (40 hours a week) for just under 22 years

LOBBYING IS...

- Attempting to influence legislation or administrative rulemaking
- Includes development of proposal before introduction or attempting to block introduction of a proposal



<u>Does not</u> include seeking a contract or grant, or quasi-judicial decisions



WHO IS A LOBBYIST?

- An individual who:
 - is employed by and/or receives compensation from a principal
 - for the purpose of lobbying (attempting to influence legislative or administrative action by oral or written communication) on behalf of that principal and
 - makes lobbying communications on each of at least 5 days within a reporting period
- Cannot be delinquent on taxes, child support, or unemployment insurance contributions
- Excludes unpaid volunteers, or individuals that only receive expense reimbursement

LOBBYING COMMUNICATION

- Defined in 13.62 (10g) means "an oral or written communication with any agency official, elective state official, or legislative employee that attempts to influence legislative or administrative action."
- Includes anyone communicating on behalf of a principal (lobbyists, employees, unpaid volunteers, executives, board members, etc.).
- Excludes communicating with own legislators if not on behalf of a principal.
- Also excludes mass communications through the media.

LOBBYING COMMUNICATION 5 Days Threshold vs. Time Reporting

5 Day Threshold for Lobbyist License

- Any oral or written communication with the purpose of lobbying on behalf of a principal.
 - In-person meetings
 - Phone calls
 - Sending emails or letters
 - One-way or two-way communication

Lobbyist Time Reporting

- Good faith effort of approximate time
- Requires some conversation or back and forth dialogue.
 - In-person meetings
 - Phone calls
 - Conversational exchange of electronic messaging
 - Excludes de minimis amounts of time

WHAT IS A LOBBYING PRINCIPAL?

"'Principal means any person who employs a lobbyist..."





QUESTIONS?



THE THREE R'S OF LOBBYING

REGISTRATION

REPORTING

RESTRICTIONS

WHO NEEDS TO REGISTER/LICENSE?

Lobbyists

 An individual who, for compensation, communicates with state officials for the purpose of lobbying on 5 or more days in a six-month reporting period

Principals (Lobbying Organizations)

 A business or organization that pays an individual to try to influence legislation or administrative rulemaking and that individual communicates with state officials or legislative employees on 5 or more days during a six-month reporting period

REGISTRATION REQUIREMENT

- On the 5th day of a lobbying communication is the absolute latest that a lobbyist must be licensed and authorized, and a principal must be registered.
- Reporting first 4 communications in a 6 month period is not required, but highly encouraged.
- If you realize that you have registered *after* you've had a 5th communication, contact Ethics Commission staff immediately
 - Self-reporting will allow us to work with you to resolve the issue

You can avoid this headache by registering early

- Registration opens December 1st before the beginning of a new session

LICENSING/REGISTRATION SCENARIO #1

An organization contracts with two people to lobby on its behalf. One person communicates with Legislators on four occasions and the other on three occasions within a six-month reporting period.

Who is required to obtain a lobbying license or principal registration?

NO ONE



LICENSING/REGISTRATION SCENARIO #2

A business employs a governmental affairs specialist to represent it and communicate with Legislators monthly about the effects legislation has on their industry's productivity.

Who is required to be licensed or registered, and when?

- The governmental affairs specialist must obtain a lobbyist license
- The business must register as a lobbying principal and authorize the governmental affairs specialist (now lobbyist)
- Both must occur prior to the fifth communication with state public officials, but can and should happen sooner.

STEP 1: APPLY FOR A LOBBYIST LICENSE

Necessary Information:

Lobbyist Name

Title/Division (optional)

Employer

Mailing Address

Location Address (if different than mailing)

Phone number(s)

Email address

Single/Multiple Principal license

Usernames of those you wish to have access to your lobbyist account

Social Security Number – §13.63(1)(b) used for checking delinquency regarding taxes, unemployment contribution payments, and court ordered childcare payments

* This information can be updated at any time by choosing *Amend a Lobbyist License* from the *Registration and Licensing* tab.

STEP 2: REGISTER YOUR PRINCIPAL

Necessary Information:

Principal name

In-house contact person

Principal mailing address

Location address (if different than mailing)

Correspondence contact person (optional)

Principal nature/interest

Agencies to be lobbied

"Full" or "limited lobbying" status

Lobbyists to authorize

Usernames of those you wish to have access to principal account



^{*} This information can be updated at any time by choosing *Amend a Principal Registration* from the *Registration and Licensing* tab.

STEP 3: AUTHORIZE YOUR LOBBYIST(S)



Lobbyists must have completed their lobbyist license application before they can be chosen for authorization by the principal.

STEP 4: PAY FEES (PER LEGISLATIVE SESSION)

Single Lobbyist License	\$250
Multiple Lobbyist License	\$400
Authorization to Lobby	\$125
Principal Registration	\$375
Limited Principal Registration	\$20
FOCUS Subscription	\$100

**Principal, lobbyist, or individual can all pay fees



FEES SCENARIO #1

A non-profit organization pays a staff member to
lobby on its behalf as half of her normal duties.

She is paid \$45,000 per year, and does not lobby on behalf of anyone else.

Single Lobbyist License \$250 Multiple Lobbyist License \$400 Authorization to Lobby \$125 **Principal Registration** \$375 **Limited Principal Registration** \$20 **FOCUS Subscription** \$100

What registration fees are required?

TOTAL	\$750
Authorization to Lobby	\$125
Principal Registration	\$375
Single Lobbyist License	\$250



FEES SCENARIO #2

Single Lobbyist License

Authorization to Lobby

Principal Registration

FOCUS Subscription

Multiple Lobbyist License

Limited Principal Registration

\$250

\$400

\$125

\$375

\$20

\$100

- A firm represents four lobbying principals.
- The firm employs three lobbyists.
- Each lobbyist represents two principals.

What fees are	required?
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Multiple Lobby License (\$400) x3	\$1,200
Principal Registration (\$375) x4	\$1,500
Lobbyist Authorization (\$125) x6	\$750
TOTAL	\$3,450

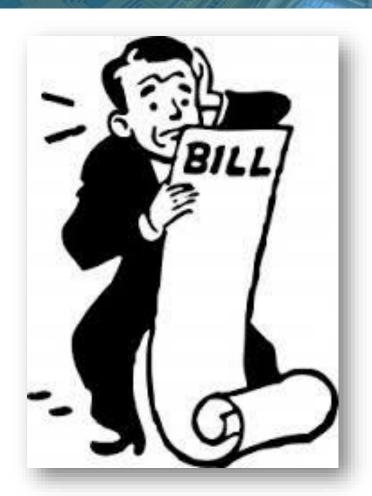




QUESTIONS?

REPORTING REQUIREMENTS

- **1. Submitting 15-day reports** due continuously (responsibility of the principal)
- **2. Tracking lobbying time: communicating vs. other** due at the end of reporting period, January 31, July 31 (responsibility of the lobbyist)
- **3. Statement of Lobbying Activity and Expenditures (SLAE)** due at the end of reporting period, January 31, July 31 (responsibility of the principal)



15-Day Reporting of Lobbying Interests

15-day reporting review

- Required of ALL PRINCIPALS
- Bills, rules, and budget subjects within 15 days of first communication on that matter
- Topics not yet assigned a bill or rule number within 15 days of first communication
 A topic may become a bill and then may be included in the budget
- Report on the Eye On Lobbying website: https://lobbying.wi.gov

LOBBYING TOPICS

Provide a <u>succinct written statement</u> sufficient to put the reader on notice of the communication's subject matter and whether the communication is an attempt to influence:

- legislative action
- an administrative rule
- or both

The statement should be equivalent to a bill or rule relating clause, but need not contain a statutory reference.

REPORTING INTEREST

-15 DAY REPORTING-

- Report using tools on the Eye on Lobbying website: https://lobbying.wi.gov
- Report a new lobbying interest or amend a previous position

15 Day Reporting

Report Interest In Legislative Proposals

Report Interest In Budget Bill Subjects

Report Interest in Proposed Rules

Report Interest In Topics

Amend Interest In Legislative Proposals

Amend Interest In Budget Bill Subjects

Amend Interest In Proposed Rules

Amend Interest In Topics

SAMPLE 15 DAY REPORT

Assembly Bill 1

Relating to: a school review system, providing an exemption from emergency rule procedures, providing an exemption from rule-making procedures, granting rule-making authority, and making an appropriation. (FE)

Specify your Position and Comments

Interest Notification Date

12/2/2016



Interest Reporting Period

- January 2015 to June 2015
- July 2015 to December 2015
- January 2016 to June 2016
- July 2016 to December 2016

Position











SAMPLE 15 DAY REPORT

250 character(s)	remaining		//	
Supporting Docu				
		t (.pdf, .doc, .txt, .rtf ON	LY)	
Upload Position	ı File			
Web Site Url				
	a url (link) to a websit	е		
250 character(s)	remaining			



QUESTIONS?

REPORTING REQUIREMENTS DURING THE REPORTING PERIOD

Daily itemization of time

Communicating vs. "Hours Other"

Who needs to track time?

Lobbyists and non-lobbyist employees participating in lobbying activity EXCEPT

- Clerical employees
- Individuals devoting less than 10 hours in a six-month reporting period to lobbying
- Unpaid volunteers

LOBBYIST TIME REPORTS

Communication

- Meeting directly with state officials (including elected officials, legislative aides, and agency employees with rule-making responsibilities)
- Appearing at public hearings
- Phone calls
- Conversational exchange of electronic messaging
- Requires "back and forth" dialogue
- Excludes de minimis amounts of time

Other

- Preparation and research
- Time spent monitoring legislative and state agency activities
- Drafting letters/emails
- Internal meetings to discuss lobbying issues and strategy
- Collecting, compiling, or analyzing facts, data, or other information
- Preparing to communicate with state officials or state employees
- Preparing for grassroots lobbying

SAMPLE TIME SHEET

July 2016 Hours

Date	Hours Communicating	Hours Other
1 - Friday	0	0
2 - Saturday	0	0
3 - Sunday	0	0
4 - Monday	0	0
5 - Tuesday	0	0
6 - Wednesday	0	0
7 - Thursday	0	0
8 - Friday	0	0
9 - Saturday	0	0
10 - Sunday	0	0

REPORTING SCENARIO #1

- A principal's lobbyist meets with a legislative aide to pursue the drafting of legislation that would create a tax exemption for cat food.
- The Legislator then introduces such a bill.
- During the budget drafting, the bill language is included in the Department of Revenue's budget.
- The lobbyist continues to communicate with legislative staff throughout this process.

What reporting is required of the principal?

Report within 15 days as a topic of the communication with the legislative aide Report within 15 days as a legislative matter once the bill is officially introduced Report within 15 days as a budget bill subject when incorporated into the budget bill

REPORTING SCENARIO #2

- October 1 lobbyist spends two hours putting together a presentation on why the Legislature should pass a
 certain bill.
- On October 2 lobbyist meets with board members for one hour to discuss their legislative strategy for the presentation.
- On October 3 lobbyist drafts a letter to the organization's members reminding them of the upcoming election.
- On October 4 lobbyist shares the presentation with three legislators for an hour at each meeting.

How should the lobbyist report their time?

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October 1<sup>st</sup> - 2 hours – other
October 2<sup>nd</sup> - 1 hour – other
October 3<sup>rd</sup> – no time reported (communication was not regarding lobbying)
October 4<sup>th</sup> - 3 hours - communicating
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QUESTIONS?

REPORTING REQUIREMENTS AT THE END OF EACH REPORTING PERIOD

Statements of Lobbying Activities and Expenditures (SLAEs)

- Subjects of lobbying come from 15-day reports
- Reasonable estimate of proportion of lobbying time for each bill, rule, topic, and budget bill subject reported
- Expenditures, benefits and time
- Identity of non-lobbyist employees making lobbying communications

REPORTING TIME & MONEY

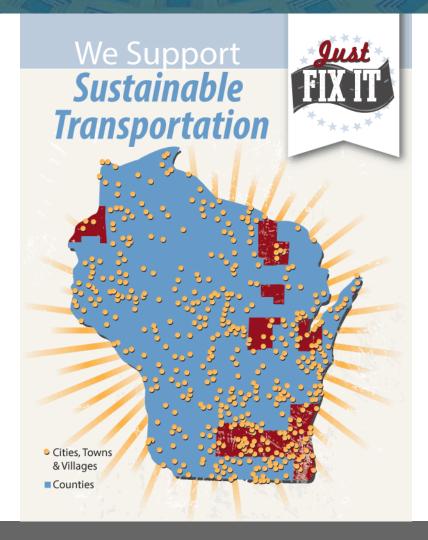
Statutes require you to make "reasonable estimates" acting in "good faith" with respect to timekeeping and expense tracking.

§§13.68(1)(3); 13.68(1)(bn); 13.68(2)(b) and (c)

Do not artificially inflate hours by including grassroots lobbying time

(only include the expenses from grassroots organizing)

REPORTING TIME & MONEY

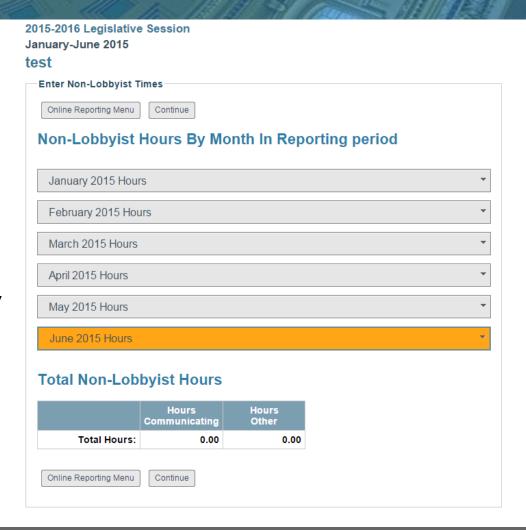


STATEMENT OF LOBBYING ACTIVITY AND EXPENDITURES



NON-LOBBYIST TIME REPORT

- Enter time for all non-lobbyist employees (non-clerical) who spent 10 or more hours during the reporting period on lobbying-related activities
- Enter the total time for all non-lobbyist employees on the same report
- Do not record the time of your Lobbyist(s); that time is already reported in each Lobbyist's Time Report
- Do not record time of any who is not a lobbyist who devoted 10 or fewer hours to lobbying-related activities: clerical employees, unpaid officers, directors, or volunteers





SAMPLE SLAE

Lobbying And Time Expenditures

2015-2016 Legislative Session

January-June 2015

Wisconsin

Description Of Totals And Expenditures	Hours Communicating	Hours Other	Dollars
Contract Lobbyists	0.00	0.00	\$0.00
Comments:			
In-House Lobbyists	7.50	26.00	100
	7.50	26.00	
Comments:			
Non-Lobbyist Employees	0.00	0.00	\$0.00
Comments:			
Fringe Benefits ¹			-
Overhead ²			
Payments to Officials ³		\$0.00	
Travel and Living Expenses			
a) Lobbyist Employees			\$0.00
b) Non-Lobbyist Employees		\$0.00	
All Other Lobbying Expenses			\$0.00
Total Lobbying Time And Expenditures:	7.50 Hours	26.00 Hours	

SAMPLE SLAE

Allocation of Lobbying Effort	Percent
Legislative Proposals	0%
Budget Bill Subjects	100%
Transportation: Finance	100 %
Administrative Rulemaking Proceedings	0%
Topics Not Yet Assigned A Bill Or Rule Number	0%
Minor Efforts	0%
All Other Matters	0%
Total Reported Lobbying Effort:	100%

Report Certified On:

1

Fringe benefits are automatically calculated as 30% of salary. Overhead is automatically calculated as 30% of salary plus fringe. If you wish to manually calculate fringe benefits and overhead, click the Calculate Fringe and Overhead button below:

2

Fringe benefits are automatically calculated as 30% of salary. Overhead is automatically calculated as 30% of salary plus fringe. If you wish to manually calculate fringe benefits and overhead, click the Calculate Fringe and Overhead button below:

3.

Wis. Stats. 13.68(d): Reimbursement to officials.

Certification and Electronic Signature

I certify I am and certify that the information entered and reported to the Wisconsin Ethics Commission is an accurate record of the lobbying activities of

I further understand that if I know or believe that the records I submit are not complete or that any part of it is not true, I may be fined \$10,000 or imprisoned for 5 years or both. I understand that Wisconsin Statutes require me to retain until 3 years from the date that the records are filed documents necessary to substantiate these reports.



QUESTIONS?

SLAE SCENARIO #1

- A principal has communicated two different bills and three different topics this July-December reporting period
- It is now January 25th, and the principal is filing their SLAE before the deadline on January 31—but there are no legislative matters listed under Step 4 of the SLAE, "Allocation of Efforts"

What could have gone wrong?

The principal did not submit 15-day reports for each of the five initial communications that occurred for the legislative matters they have been interested in.

The principal is required to submit each 15-day report (§13.67) so that they can allocate appropriate effort in Step 4 of the SLAE.

These 15-day reports will be considered late because they were submitted more than 15 days after the last possible day to have had an initial communication on a legislative matter inside the reporting period.

SETTLEMENT FOR LATE 15-DAY REPORTING

If this was the principal's second occurrence (within three years) of reporting 15 day reports late, and their 2 bills and three topics collectively constitute 60% of total lobbying effort, then:

2nd occurrence of late reported interest

>=10% of total effort

\$100 per interest=

\$500

2. Late reporting of the first communication on a lobbying matter.

Late Reports	Percent of Total Effort	Forfeiture
1st Occurrence of Late Reported Interest	< 10 percent	Warning
	>= 10 percent	\$25 Per Interest
2 nd Occurrence of Late Reported Interest	< 10 percent	\$50 Per Interest
2 Occurrence of Late Reported Interest	>= 10 percent	\$100 Per Interest
3 rd or Greater Occurrence of Late Reported Interest	Any	\$100 Per Interest

Lobbying principals are required by WIS. STAT. §13.67(1) to report each legislative proposal, budget bill subject, or lobbying topic through the Eye On Lobbying website within 15 days of the first communication on that matter. WIS. STAT. §13.69(2m) outlines the penalties for late reporting of lobbying activity. The maximum penalty is up to \$25 for the first offense within a three-year period and up to \$100 for a second and subsequent offense within three years from the first violation.

STANDARD SETTLEMENT SCHEDULE

1. Late filing of semi-annual lobbying report (§13.68) - maximum penalty \$5,000.

Days Late	First Offense	Second or Greater Offense
2 business days	No penalty	Warning
3-5 days	Warning	\$50
6-15 days	Warning	\$100
16-29 days	\$50	\$250
30+ days	\$100	\$500

2. Late reporting of the first communication on a lobbying matter.

Late Reports	Percent of Total Effort	Forfeiture
1st Occurrence of Late Reported Interest	< 10 percent	Warning
1st Occurrence of Late Reported Interest	>= 10 percent	\$25 Per Interest
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3 rd or Greater Occurrence of Late Reported Interest	Any	\$100 Per Interest

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FINAL SCENARIO

A principal employs one contract lobbyist and one full time in-house lobbyist, and one in staff person which spends half of their regular full-time hours conducting research and strategizing with the contract and in-house lobbyists.

What information needs to be included on the principal's SLAE?

*Note: the research staff member never directly communicates with any legislators or legislative staff

Bonus: Who needs to be licensed/registered, and when?

Contract & In-House Lobbyist hours & expenses (lobbyist time reports)

One research staff hours & expenses

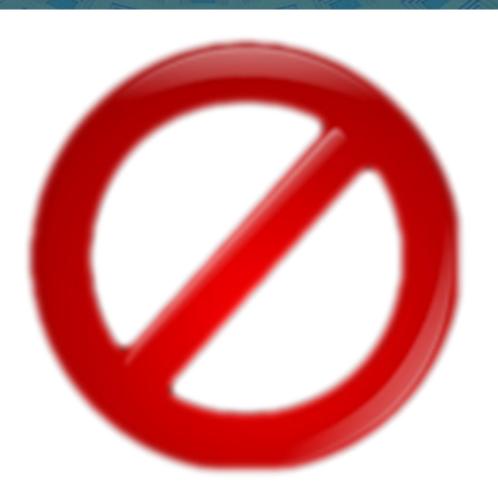
Allocation of Effort (continual reporting throughout the reporting period)

Bonus: The contract lobbyist probably already has a multiple principle license obtained at the beginning of the session. The in-house lobbyist must become licensed before the fifth occasion of lobbying communication within a six-month reporting period. The principal must register as soon as they employ a lobbyist (§§13.62(11) and (12))



QUESTIONS?

RESTRICTIONS



Wisconsin Statutes §13.625

No **lobbyist** and **no business or organization that employs a lobbyist (principal)** may give **anything** of pecuniary value to an elected state official, candidate for state elective office, legislative employee, or agency official

Except...



Eth. Bd. Op. 06-08.; Eth. Bd. Op. 97-12.; 80 Op. Att'y Gen. 205 (1992).

EXCEPTIONS TO §13.625

Except:

- Items and services a lobbying principal makes available to the general public
- Reimbursement to an elected state official, candidate for state elective office, legislative employee, or agency official for expenses related to presenting a talk
- Campaign contributions at certain times



CAMPAIGN CONTRIBUTIONS

- Contributions to candidates for local and non-partisan office allowed
 - If not currently holding a partisan office
- A lobbyist may make a <u>personal</u> contribution to a partisan elected official or candidate for partisan state office:

From the first day authorized by law for the circulation of nomination papers until general or special election day

AND the Legislature has concluded its final floor period

AND the Legislature is not in special or extraordinary session (check https://legis.wi.gov)

• A lobbyist may deliver a contribution on behalf of a committee (PAC, Conduit, etc.) at any time





QUESTIONS?

FOCUS

- FOCUS is an email subscription service that brings customizable lobbying information directly to your inbox every day.
- Select criteria of interest "insurance", "Assembly Bill 1",
 The Ethics Commission will send you an email when any Eye On Lobbying activity takes place on that topic.

Neat!

• \$100 per session

SAMPLE FOCUS EMAIL

This email contains a report of activity in the Wisconsin Government Accountability Board's Eye on Lobbying website over the past 24 hours, based on your FOCUS subscription preferences.

Bills Affecting Wis. Stats. Chapter 1

Bill Number	Relating To	Reported Date
January 2014 Special Session Senate Bill 1	Relating to: reducing the lowest individual income tax rate; providing technical college property tax relief aid; establishing a technical college district revenue limit; the carry-back of net operating losses; the sales and use tax exemption for commercia	10/14/2014
January 2014 Special Session Senate Bill 2	Relating to: workforce training grants to technical colleges, workforce training grants for collaborative projects among school districts, technical colleges, and businesses, workforce training grants and services to enhance employment opportunities for pe	10/14/2014

Keyword: "job"

Legislative bills/resolutions

Bill Number	Relating To	Reported Date
	Relating to: reducing the lowest individual income tax rate; providing technical college property tax relief aid; establishing a technical college district revenue limit; the carry-back of net operating losses; the sales and use tax exemption for commercia	10/14/2014

Principal Activities: 1000 Friends of Wisconsin

Legislative Bills/Resolution

Bill Number	Position	Reported Date
Assembly Bill 5	Other	10/14/2014

Budget Bill Subjects

Subject	Reported Date
Administration: Facilities Management and Facilities Development	10/14/2014



State of Wisconsin Ethics Commission

FREQUENT MISTAKES TO AVOID

- 1-Apply for a lobbyist license
- 2-Register principal
- 3-Authorize lobbyist
- 4-Pay Fees
- Principal Permissions
- DO NOT create a new user account if you cannot log in call us!
- Do not wait until the deadline for submitting the Statement of Lobbying Activities and Expenditures (SLAE) to report lobbying on topics, bills, budget bill subjects, or administrative rules
- Submit 15 day reports in a timely manner
- If you wish to withdraw a lobbyist authorization or surrender your lobbyist license as call us!



Others?

Where to get more information

Wisconsin Ethics Commission website (https://ethics.wi.gov)

Resources

About Lobbying in Wisconsin

Eye on Lobbying User's Guide

- Eye On Lobbying FAQs
- Advisory opinions
 [Prompt, confidential, authoritative]
- Wisconsin Ethics Commission staff
 We would love to help you remain ethical.





CONTACT ETHICS COMMISSION STAFF

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Lobbying.wi.gov

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It's better to ask for permission than forgiveness!